

## **AGENDA**

North Dakota Racing Commission  
Live Meeting  
500 N 9th St, Bismarck, ND  
Wednesday, October 8, 2003  
1:00 p.m.

1. \$2,000 Request for Jockey Incentive
2. Update on Assault on Steward
3. Update on Possible Appeals (Wanda Belgarde, Shawn Belgarde, Stuart Belgarde)
4. Dave Wisdom Protest
5. Approval of Minutes for August 20 and September 3, 2003
6. Other Matters Which May Come Before the Commission

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If you plan to attend the meeting and will need special facilities or assistance relating to a disability, please contact the Racing Commission at 701-328-4633.

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North Dakota Racing Commission  
Live Meeting  
Wednesday, October 8, 2003  
1:00 p.m.

PRESENT:

Chairman Howard W. Wrigley, Commissioners James Arthaud (by telephone), James Boehm, James Clement, and Clarence Frederick, Director of Racing Paul Bowlinger, Counsel Bill Peterson, Auditor Roger Thompson, and Administrative Assistant Kelly Boespflug

OTHERS PRESENT:

Nancy Bayer - NDQHRA/NDTBA  
Wanda Belgarde  
Janell Cole, The Fargo Forum  
George Frederick  
Wes Heinert, NDQHRA  
Les Schmidt, Horse Race ND  
Dale Wetzel, Associated Press

The meeting was called to order at 1:00 p.m. by Chairman Wrigley. The roll call was taken by Executive Director Bowlinger.

Commissioner Boehm	-	Here
Commissioner Clement	-	Here
Commissioner Frederick	-	Here
Commissioner Arthaud	-	Here
Chairman Wrigley	-	Here

Executive Director Bowlinger stated Chairman Wrigley informed him that he would like the issue of additional funds requested by the North Dakota Horse Park, for \$231,430.49, be added to the agenda.

Chairman Wrigley requested a motion to add this as an agenda item.

**Commissioner Clement moved to add consideration of the North Dakota Horse Park Foundation promotion fund request to the agenda. Commissioner Boehm seconded the motion.**

Executive Director Bowlinger called the roll as follows:

Commissioner Boehm	-	Yes
Commissioner Clement	-	Yes
Commissioner Arthaud	-	Yes
Commissioner Frederick	-	Yes
Chairman Wrigley	-	Yes

**The motion carried unanimously.**

Chairman Wrigley stated the agenda item will be placed between Agenda #5 and Agenda #6.

**AGENDA ITEM #1**  
**\$2,000 Request for Jockey Incentive**

Executive Director Bowlinger stated the Racing Commission in the past several years has given additional funds to the Belcourt racetrack out of the promotion fund as an incentive to award the top riders of a race meet. This is money that the track promises to jockeys to try to get the higher caliber of jockeys and to get the jockeys to stay for the entire meet. It's been an effective program. Executive Director Bowlinger stated Les Schmidt had conversed with him about this and Executive Director Bowlinger told Mr. Schmidt he didn't think the Commission would have a problem continuing with the incentive. Executive Director Bowlinger requested the Commission to consider honoring the previous commitment they've made to Chippewa Downs to the Fargo racetrack and requested a motion to award the incentive money.

Les Schmidt stated the track came up with \$2,100 for the program.

Commissioner Clement asked how the money is disbursed. Mr. Schmidt stated it is disbursed through eight places, and the jockey has to be at the meet ten of the thirteen days. He believes first place receives \$1,200 or \$1,400 down to eighth place receiving \$100.

More discussion held.

**Commissioner Clement moved to approve the \$2,000 jockey incentive to the Fargo Horse Park out of the promotion fund. Commissioner Boehm seconded the motion.**

Executive Director Bowlinger called the roll as follows:

Commissioner Arthaud	-	Yes
Commissioner Boehm	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Wrigley	-	Yes

**The motion carried unanimously.**

**AGENDA ITEM #2**  
**Update on Assault on Steward**

Executive Director Bowlinger stated at the end of the five-weekend race meet, issues have come up such as protests, appeals, fines, and suspensions. The steward has at his option if there is something that puts the steward in the middle of a conflict, he can refer it to the Commission. The steward, Randy Blaseg, sent a letter to Executive Director Bowlinger's attention stating that on September 13 he was assaulted by Chad Warren, a jockey from Belcourt. This is an extremely serious offense. If warranted, the sanction is going to be extremely serious. Executive Director Bowlinger will request a copy of the police report, talk to witnesses, and will come to the Commissioners with a recommendation.

Counsel Peterson stated part of the process would be to call for an investigation and then ask for a response from licensee. Then the Commission would determine whether to initiate a disciplinary action. If the Commission initiates a disciplinary action, the individual is entitled to a hearing.

**AGENDA ITEM #3**  
**Update on Possible Appeals**  
**(Wanda Belgarde, Shawn Belgarde, Stuart Belgarde)**

Executive Director Bowlinger stated there were three separate incidents. An appeal has been received by Wanda Belgarde, Shawn Belgarde, and Stuart Belgarde. Executive Director Bowlinger has not yet discussed in length with counsel the validity of the appeals, whether the issues are appealable and the timeliness of the appeals. The Stuart Belgarde situation regards Mr. Belgarde being involved in a fight on the grounds of the racetrack. The security report stated he hit a member of his family with a jack handle. This resulted in actions taken by the steward, which is now being appealed. Shawn Belgarde was denied a license by the steward on basis that when the NAPRA database was checked, he was not licensable in South Dakota. Wanda Belgarde appealed two issues. At this point, Executive Director Bowlinger is not recommending any action at this time.

Chairman Wrigley recognized Wanda Belgarde. Wanda Belgarde stated she also has some issues that she would like to bring to the Board's attention. There are a lot of issues where the stewards did not follow their own rules and has documentation she would like to present.

Executive Director Bowlinger asked Ms. Belgarde if she has legal counsel, and she stated she has. Executive Director stated he has not heard anything from her legal counsel.

Executive Director Bowlinger asked if Ms. Belgarde is making the representation that her counsel has requested information from this office. Ms. Belgarde stated the last she talked to him, he hadn't received any documentation from the Racing Commission, nor did she.

Executive Director Bowlinger stated the Racing Commission has not received anything from Ms. Belgarde's attorney. Ms. Belgarde stated she has letters to the Racing Commission.

Executive Director Bowlinger asked Ms. Belgarde if her attorney has told her that he has made contact with Executive Director Bowlinger. Ms. Belgarde stated not with Executive Director Bowlinger, but with Mr. Blaseg. Executive Director Bowlinger stated he has not received anything from Ms. Belgarde's attorney.

Counsel Peterson stated the Steward is not the Commission, but there is an appeal before the Commission, and the Commission needs to investigate those matters and decide whether or not they are appealable and collect any information that the Commission needs.

More discussion held.

Chairman Wrigley stated he has copies of Ms. Belgarde's faxes, and the faxes are from the Bismarck Burleigh Public Health Organization, which is a public entity. Chairman Wrigley asked if she faxed the letters from there. Ms. Belgarde stated she did and she also paid for the faxes.

Counsel Peterson stated the Commission does not have all the information from Randy Blaseg yet. He also suggested that Ms. Belgarde's attorney submit documentation so the Board will have an opportunity to review it before the next meeting.

Ms. Belgarde stated she will have her attorney provide the information.

Commissioner Clement stated in all fairness to Ms. Belgarde and to the Commission, it would be nice to have all the information that the Commission needs to make informed decisions.

Executive Director Bowlinger stated the next meeting will be the first part of December. Chairman Wrigley stated a date should be set to receive the information from Ms. Belgarde's attorney. The date of November 1, 2003, to receive the information from Ms. Belgarde's attorney was decided upon.

#### **AGENDA ITEM #4 Dave Wisdom Protest**

Executive Director Bowlinger stated Mr. Wisdom sent a letter stating he wants to protest the steward's decision on race #8. "Bob Johnson, trainer, and David Wisdom, owner, request a hearing before the Racing Commission on the steward's decision to take #4 Dashing By By down from 2nd place to last." Executive Director Bowlinger stated he talked to Dave Wisdom a couple of times, and Mr. Wisdom informed he wasn't ready and did not choose to appear at this meeting. Today the Commission received a letter from Mr. Wisdom's attorney stating they were not prepared to discuss this matter at this meeting.

Counsel Peterson stated the protest concerns disqualification of his horse. It might be helpful to understand the legal relationships involved between the track and the Commission. The North Dakota Racing Commission regulates horse racing in North Dakota. The way it does that is it licenses organizations to conduct races, it licenses individuals to participate in races, and adopts the rules for the conduct of the races and the conduct of the licensees. The Commission may take action to suspend or revoke a license. The Commission does not, however, conduct the races. The races are conducted by the association such as Fair Circuit. By rule the Commission does not have authority to hear appeals concerning the conduct of races. Under the rules, the decision of the steward to disqualify a horse is final. Only the imposition by the steward of a fine or the suspension of a license is appealable to the Commission. Therefore, the Commission does not have authority to reconsider the steward's decision in this case to disqualify the horse and is unable to consider Mr. Wisdom's protest concerning the disqualification of the horse. Counsel Peterson recommends the Commission inform Mr. Wisdom of this.

Commissioner Clement asked Executive Director Bowlinger to send Mr. Wisdom a letter explaining why the protest is not appealable. Executive Director Bowlinger agreed to do so.

#### **AGENDA ITEM #5 Approval of Minutes for August 20 and September 3, 2003**

**Commissioner Clement moved to approve the minutes of August 20, 2003, and September 3, 2003. Commissioner Boehm seconded the motion.**

Executive Director Bowlinger called the roll as follows:

Commissioner Arthaud            -            Yes

Commissioner Boehm	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Wrigley	-	Yes

**The motion carried unanimously.**

**AGENDA ITEM #5a  
Fargo Horse Park Request to Complete Phase I**

Chairman Wrigley stated the amount of the Horse Park's request, an additional over the \$2.5 million, is \$231,430.49. Chairman Wrigley's understanding from Mr. Pawluk is that this is the final bill. This is in compliance with the September 2002 Board meeting when Commissioner Arthaud stated when the Horse Park is through with the project, then ask for the remainder of what is needed.

Executive Director Bowlinger stated Chairman Wrigley has gone to the Horse Park and validated that all this work actually has been accomplished. The North Dakota Horse Park alerted the Commission on September 12, 2002, that they may need additional funds, and Commissioner Arthaud stated the Commission does not want to start considering the contingency fund or adding any more money to this until the project is done. At the end of the \$2.5 million, the Commission would take a look and see whether any more amounts are justified. Executive Director Bowlinger's understanding is they have now complied with that and submitted the document on September 18, 2003. As Chairman Wrigley has represented, this is the final amount to take care of Phase I. The Horse Park is still due \$90,092.67 out of the \$2.5 million, and the additional amount of \$231,430.49 is needed to complete the phase.

**Commissioner Arthaud moved to approve the additional funding to the North Dakota Horse Park of \$231,430.40 from the promotion fund. Commissioner Boehm seconded the motion.**

Chairman Wrigley stated the Horse Park did an excellent job under the conditions it was so wet in June and July, and to get this project to look like it did the day the race opened, they did a fantastic job. They should be commended for the items they've done. The money was put to good use.

Executive Director Bowlinger asked Chairman Wrigley if he had confirmed that all of this work has been done, and Chairman Wrigley confirmed he had and all the work was done. Chairman Wrigley also said he was at the track regularly and saw no wasted movement or money.

Executive Director Bowlinger stated Chairman Wrigley has spent a great deal of time on this project and would like to personally thank him.

Commissioner Boehm asked who owns the gate and equipment, and Executive Director Bowlinger stated Fair Circuit Horse Racing Association owns the gate.

Executive Director Bowlinger called the roll as follows:

Commissioner Boehm	-	Yes
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Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Wrigley	-	Yes

**The motion carried unanimously.**

**AGENDA ITEM #6**  
**Other Matters Which May Come Before the Commission**

Chairman Wrigley read his resignation letter. He stated it was necessary to resign his position because his son is investigating the simulcast service provider that the commission regulates, “. . . I do not want my position to compromise the reality of the complete fairness and the impartiality of the Racing Commission and the US Attorney in their separate investigations.” “. . . Thank you, for what has been an enjoyable opportunity to serve the State of North Dakota.”

Executive Director Bowlinger stated he appreciates Chairman Wrigley's work on the Commission.

Executive Director Bowlinger then informed that the RSI investigation was proceeding, and this office is working with the Attorney General's Office to monitor the receivership issue.

Executive Director Bowlinger stated many issues will come to the Commission regarding requests for additional monies from the promotion, purse, and breeder's fund. Typically that meeting is held in November; however, because of not having a Chairman, with the complexity of where the simulcast handle will be, Executive Director Bowlinger would like additional time to review that information and suggested a meeting be set the first part of December.

Commissioner Arthaud stated to Chairman Wrigley that he appreciates all the work he did in Fargo. Chairman Wrigley took the bull by the horns and took over, and it was greatly appreciated.

Commissioner Boehm echoed what Commissioner Arthaud stated and stated he was a good Chairman and good Board member.

**Chairman Wrigley moved to adjourn the meeting at 1:45 p.m. Commissioner Boehm seconded the motion.**

Executive Director Bowlinger called the roll as follows:

Commissioner Arthaud	-	Yes
Commissioner Boehm	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Chairman Wrigley	-	Yes

**The motion carried unanimously.**